

REMARKS/ARGUMENT

The present Response is being filed under a Certificate of Mailing as indicated. By this correction, claim 8 is now listed as withdrawn and is presented herein without the amendments previously included in the Amendment and Response filed on December 6, 2007.

Claims 1-2, 6-7 and 24-25 are pending and read on the elected species of FIGS. 1-2.

Claims 1, 6-7 and 24 have been amended. Claims 3-4, 8-9 and 26-34 have been withdrawn. To expedite prosecution, claims 5 and 10-23 have been cancelled; applicants reserve the right to proceed with these claims in a continuation of divisional application.

Support for Claim Amendments

Claim	Amendment	Support
1	<p>a first component having an articulating surface, <u>an end opposite the articulating surface, and</u> an interior surface defining a tapered bore <u>at the end,</u> and an exterior surface spaced from the articulating surface, at least a portion of the exterior surface surrounding the tapered bore, the portion of the exterior surface surrounding the tapered bore being asymmetrical in at least one cross-section, <u>the maximum dimension of the first component in one direction being the distance from the articulating surface to the end;</u> and</p> <p>a tapered metaphyseal component mountable to the <u>end of the first</u> distal femoral component;</p>	FIGS. 1 and 2

1	<p><u>wherein the tapered metaphyseal component includes</u></p> <p><u>a tapered post sized and shaped to be receivable within the</u></p> <p><u>tapered bore of the first component and to create a frictional</u></p> <p><u>lock between the first component and the tapered</u></p> <p><u>metaphyseal component.</u></p>	Original dependent claim 5
6	<p><u>a first component having a distal articulating surface,</u></p> <p><u>a proximal end opposite the distal articulating surface, an</u></p> <p><u>interior surface defining a tapered bore at the proximal end,</u></p> <p><u>and an exterior surface spaced from the articulating surface,</u></p> <p><u>at least a portion of the exterior surface surrounding the</u></p> <p><u>tapered bore, the portion of the exterior surface surrounding</u></p> <p><u>the tapered bore being asymmetrical in at least one cross-</u></p> <p><u>section, the maximum proximal-distal dimension of the first</u></p> <p><u>component being the distance from the distal articulating</u></p> <p><u>surface to the proximal end; and</u></p> <p><u>a tapered metaphyseal component mountable to the</u></p> <p><u>first component;</u></p>	Original claim 1 and FIG. 2
6	<p>the adapter having a tapered post <u>at one end</u> sized and</p> <p>shaped to be receivable within the tapered bore of the first</p> <p>component and to create a frictional lock between the first</p> <p>component and the adapter, the adapter further comprising a</p> <p>tapered post <u>at the opposite end</u> ...</p>	FIGS. 2, 17-18
6	<p><u>, wherein the posts are most narrow at the ends of the</u></p>	FIGS. 2 and 17-18;

	<u>adapter.</u>	Page 24, lines 14-16 ¹ ; Page 25, lines 1-4 ² ; Page 29, lines 3-6 ³
7	<u>wherein the two tapered posts are integral.</u>	FIGS. 2 and 18
24	one of said tapered posts being <u>at one end of the adapter and being sized and shaped to be received in and frictionally lock with the tapered bore of the first implantable component and the other of said tapered posts being at the opposite end of the adapter and being sized and shaped to be received in and frictionally lock with the tapered bore of the second implantable component, the two posts being most narrow at the ends of the adapter.</u>	FIGS. 2, 17-18 Page 24, lines 14-19 Page 25, lines 1-17

¹ “The distal portion of the adapter 16 has an outer surface that is sized and shaped to be received within and frictionally lock with the Morse taper bore 26 of the LPS distal femoral component 10A.”

² “The proximal portion of the adapter 16 has an outer surface that is sized and shaped to be received within and frictionally lock within the distal Morse taper bore 21A portion of the new metaphyseal component 12A and the distal Morse taper bore 21C of the existing metaphyseal component 12C.”

³ “The Morse taper posts 19, 23, 25, 46, 52, 54, 61 and bores 21A, 21C, 26, 27, 47A, 47B, 47C can be conically or frustoconically shaped. The angle of the frustoconical taper would be expected to be less than about 8°, and typically in the range of about 2-4°.”

Claim Rejections – 35 USC §112

The rejection of claims 15-18 under 35 USC §112 is respectfully traversed. For expediency of prosecution, claims 15-18 have been cancelled.

Claim Rejections – 35 USC §102

The rejection of claims 1-2, 5-7, 24 and 25 under 35 USC §102(b) as being anticipated by O'Neil et al. (US 6,071,311) is respectfully traversed.

O'Neil et al. does not disclose use of its metaphyseal sleeve with a first component that has an articulating surface, an end opposite the articulating surface, an interior surface defining a tapered bore at the end and an exterior surface spaced from the articulating surface, where at least a portion of the exterior surface surrounds the tapered bore, where the portion of the exterior surface surrounding the tapered bore is asymmetrical in at least one cross-section, where the tapered bore is at the end of the component opposite the articulating surface and where the maximum dimension of the first component in one direction is the distance from the distal articulating surface to the proximal end. As shown below, O'Neil et al.'s bore 46 (and 46') is spaced from the end, and is positioned between the end and articulating surface of the component. In contrast, the bore of the embodiment claimed in claim 1 is at the end of the component opposite the articulating surface. Accordingly, claim 1 and its dependent claim 2 are patentable over O'Neil et al.

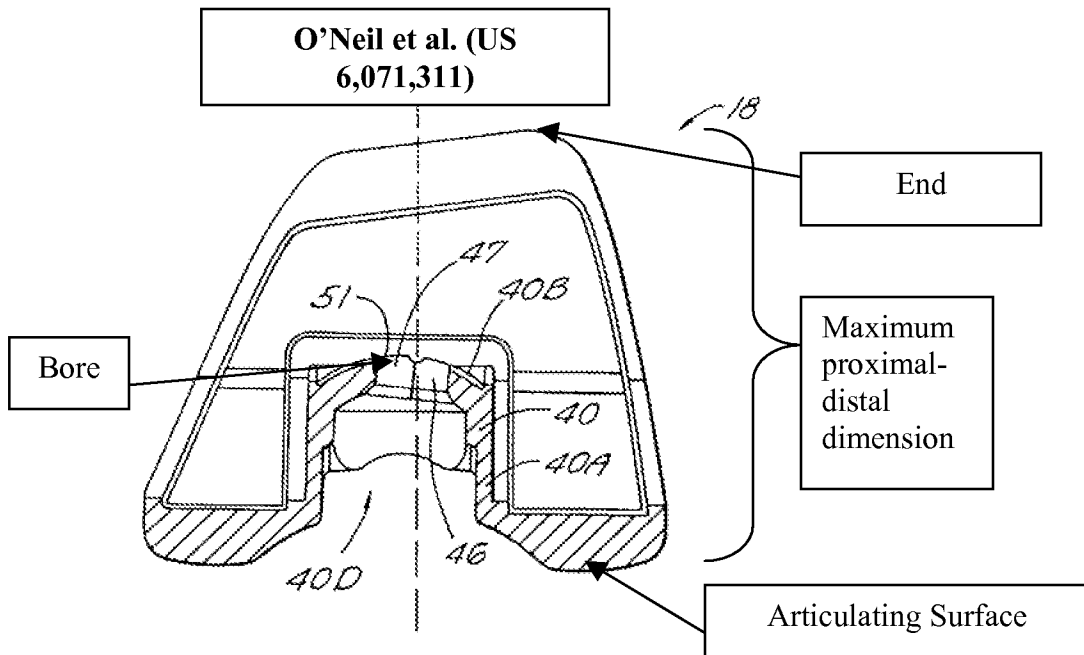
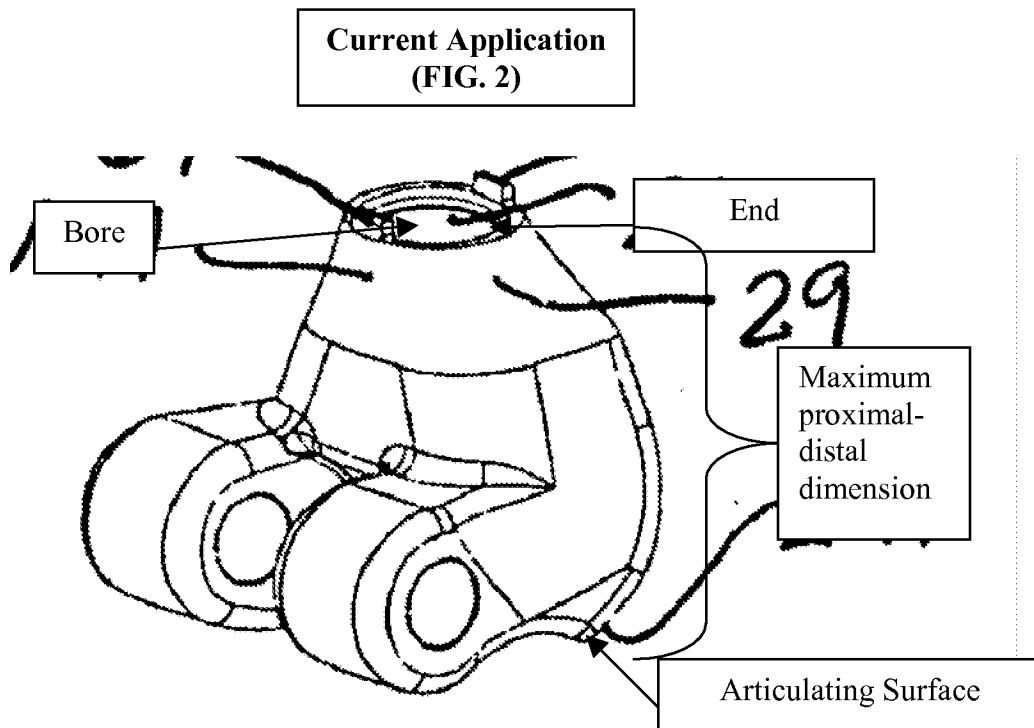


FIG. 2B



In addition, O'Neil et al. does not disclose a metaphyseal component that has a tapered post sized and shaped to be receivable within the tapered bore of the first component and to create a frictional lock between the first component and the tapered metaphyseal component. For this additional reason, claims 1 and 2 are patentable over O'Neil et al.

Next considering independent claim 6, O'Neil et al. does not disclose a modular orthopaedic implant system with an adapter with two tapered posts at its two ends, one post for receipt within the tapered bore of the first component and a second post for receipt within the tapered bore of the metaphyseal component, and where the posts are most narrow at the ends of the adapter. If one were to consider the assembly of elements 16 and 20 of O'Neil et al. to comprise two posts, these elements are *not* most narrow at the ends of the assembly, since element 20 is a bolt with a head at its end. Accordingly, claim 6 is patentable over O'Neil et al. In addition, elements 16 and 20 of O'Neil et al. are not integral. Accordingly, claim 7 is patentable over O'Neil et al.

Similarly with respect to claim 24, if one were to consider the assembly of elements 16 and 20 of O'Neil et al. to comprise two posts, these elements are not most narrow at the ends of the assembly, since element 20 is a bolt with a head at its end. Accordingly, claim 24 and its dependent claim 25 are patentable over O'Neil et al.

The rejection of claim 1 under 35 USC §102(b) (alternative interpretation) as being anticipated by O'Neil et al. (US 6,071,311) is respectfully traversed. As discussed above with respect to claim 1, O'Neil et al.'s bore 46 (and 46') is positioned between the end and the articulating surface of the femoral component 18, not at the end of the component opposite the articulating surface.

Claim Rejections – 35 USC §103

The rejection of claims 10-14 and 19 under 35 USC §103(a) as being unpatentable over O'Neil et al. (US 6,071,311) in view of Bolesky (US 4,822,366) is respectfully traversed. In addition, the rejection of claims 15-18 and 20-23 under 35 USC §103(a) as being unpatentable over O'Neil et al. (US 6,071,311) in view of Bolesky (US 4,822,366) and further in view of Noiles (US 4,846,839) is respectfully traversed. Nonetheless, to expedite prosecution of the remaining claims in this case, claims 10-23 have been cancelled; Applicants reserve the option of presenting these claims in a continuation or divisional application.

CONCLUSION

If any fees are required, the Examiner is hereby authorized to debit deposit account no. 10-0750/DEP5111NP/SJM.

For the above-described reasons it is respectfully submitted that the rejections to the claims that were not canceled or withdrawn have been overcome and that claims 1-2, 6-7 and 24-25 are currently in condition for allowance. Reconsideration, further examination and a Notice of Allowance are respectfully requested.

Johnson & Johnson
One Johnson & Johnson Plaza
New Brunswick, NJ 08933-7003
(574) 372-7796
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Respectfully submitted,
/Stephen J. Manich/
Stephen J. Manich
Reg. No. 30,657
Attorney for Applicant(s)